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GEORGE JONES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

GEORGE JONES, an individual,

Plaintiff,

v.

SHALOM BROTHERS ENTERPRISES,
LP, a California limited partnership;
FOOD INDUSTRIES
INTERNATIONAL, INC., a California
corporation; and DOES 1-10,

Defendants.

Case No.

**COMPLAINT FOR VIOLATIONS
OF: AMERICANS WITH
DISABILITIES ACT OF 1990, 42
U.S.C. § 12181, *et seq.*; UNRUH
CIVIL RIGHTS ACT, CALIFORNIA
CIVIL CODE § 51, *et seq.***

DEMAND FOR BENCH TRIAL

1 **Landlords demonize access cases and often deviously foist the overdue**
2 **remediation costs onto business owners who lease their land, all the while**
3 **protesting in litigation, tying up the Court. The secret is out.**
4

5 Plaintiff George Jones (hereinafter referred to as “Plaintiff”) complains of
6 Shalom Brothers Enterprises, LP, a California limited partnership; Food Industries
7 International, Inc., a California corporation; and Does 1-10 (each, individually a
8 “Defendant,” and collectively “Defendants”), and alleges as follows:
9

10 **I. INTRODUCTION: THE CROSSROADS OF CIVIL RIGHTS AND**
11 **PRIVATE INFRASTRUCTURE REFORM**
12

13 The landlord community has demonized ADA lawsuits in order to avoid
14 compliance with Federal law. Landlords often use heavy handed leases which
15 unfairly and secretly foist the responsibility of access law compliance of *their*
16 property onto the shoulders of the unfortunate business owner/lessor who does not
17 see the landmine in the lease. Inevitable lawsuits by customers *against landlords*
18 *who own the non-compliant property* asking for legally required features in the
19 property are then mischaracterized as attacks on the unfortunate business
20 owner/lessor by dastardly customers. This cynical and unfair tactic has caused
21 administrative headaches for the courts which must deal with emotional and
22 unnecessary litigation and has obscured the truth. In reality, the landlords’ goal is to
23 to save money by failing to bring the property into compliance and then when
24 caught, blame the disabled customer and force the remediation costs upon the
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1 business owner. The landlord is the predator. Here are the facts:

2 Mass Non-Compliance with the ADA. Many places are dilapidated and need
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4 remediation. Non-compliance is rampant. Many if not most places are not fully
5 compliant with access laws. Many properties have terribly dilapidated pavement,
6 vandalized or missing access signage, incorrectly designed paths and have
7
8 restrooms which are unusable for disabled people. These problems are common and
9 egregious in many places.

10 No Government Oversight. The government will not provide inspections or
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12 monitoring of the vast swaths of privately owned land and buildings used by
13 people. Incorrectly designed features will stay non-compliant. Many features will
14 also erode with time from long term heavy usage, weather/climate ware, vandalism,
15
16 etc.

17 Private Infrastructure Reform. The remediation and improvement to these
18
19 properties is good for business. Improvements which better the land and bring the
20 property into compliance with Federal law increase the property value and make the
21 areas more appealing for customers.

22 Remediation Costs are Tiny Compared to the Wealth of the Landlord.

23
24 The costs of remediation in many instances are a tiny fraction of the income
25
26 of most landlords, who typically own multiple commercial properties and are in the
27
28 landlord business. The landlord that owns one property is indeed a rare creature in

1 California. The value of the building, improvements and land for most properties,
2 coupled with other properties owned, dwarfs the negligible expenses of
3 remediation, which incidentally should have been made already without the need
4 for a lawsuit. The lawsuit is an unfortunate byproduct of the landlord's original
5 refusal to follow the law. The landlord saved and avoided those costs until the case.
6

7
8 Need for these cases. Despite the history of access cases there is still mass
9 non-compliance. The deterrent effect has not been enough to bring about
10 remediation such that these cases discontinue and are growing. Until the legislative
11 intent arises to change the law so that government inspectors appear on the streets
12 monitoring and enforcing access laws, these cases will be essential and important to
13 giving access to all and to improving the landscape for all customers.
14
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16 **II. PARTIES**

17
18 1. George Jones is hemiplegic because of brain strokes. He has lost
19 function on the left side of his body, his dominant side. He relies on a cane and
20 sometimes walker. He has difficulty using his upper body and lower body. Plaintiff
21 has difficulty walking and pushing or pulling objects. Plaintiff is a disabled person
22 entitled to the protections of the California Unruh Civil Rights Act (UCRA) (*see*
23 Cal. Civ. Code §§ 51, *et seq.*, 52, *et seq.*), the Americans with Disabilities Act
24 (ADA) (*see* 42 U.S.C. § 12102, *et seq.*), and other statutory laws which protect the
25 rights of "disabled persons." Plaintiff has been issued permanent a Disabled Person
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1 Parking Placard, by the State of California. Plaintiff is a California resident with
2 physical disabilities.

3
4 2. Defendant Shalom Brothers Enterprises, LP, a California limited
5 partnership owned the property (the “Property”), located at 1001 N Vermont Ave.,
6 Los Angeles, CA 90029.

7
8 3. There is a business establishment on the Property named “American
9 Ranch & Seafood Market (Mga Lutong Bahay),” (“the business”).

10 4. Defendant Food Industries International, Inc., a California corporation,
11 is/was a lessee of the Property with control over its business at all relevant times.

12
13 5. The business is a public accommodation as defined by 42 U.S.C. §
14 12181(7).

15
16 6. DOES 1 through 10 were at all relevant times lessors, lessees, property
17 owners, subsidiaries, parent companies, affiliates, employers, employees, agents,
18 corporate officers, managers, principles, and/or representatives of Defendants.

19
20 Plaintiff is unaware of the true names and capacities of Defendants sued herein as
21 DOES 1 through 10, inclusive, and, therefore, sues those Defendants by fictitious
22 names. Plaintiff requests that the Court grant leave to amend this complaint to
23 allege the true names and capacities when determined by whatever source.

24
25 7. Defendants, at all relevant times, were relevant to this action; were the
26 owners, franchisees, franchisors, lessees, lessors, general partners, limited partners,
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1 agents, affiliates, employees, employers, representative partners, subsidiaries,
2 partner companies, and/or joint venturers of the remaining Defendants; and were
3 acting within the course and scope of that relationship. Upon information and
4 belief, Plaintiff alleges that each of the Defendants gave consent to, ratified, and/or
5 authorized the acts alleged of each of the remaining Defendants.
6

7
8 8. Plaintiff visited the public accommodations owned, leased, and/or
9 operated by Defendants with the intent to purchase and/or use the goods, services,
10 facilities, privileges, advantages, and/or accommodations offered by Defendants.
11

12 **III. JURISDICTION & VENUE**

13 9. This Court has subject matter jurisdiction over this action pursuant to
14 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3) & (a)(4) for violations of the ADA.
15

16 10. Pursuant to supplemental jurisdiction, an attendant and related cause of
17 action, arising from the same nucleus of operative facts, and arising out of the same
18 transactions, is also brought under the UCRA, which expressly incorporates the
19 ADA.
20

21 11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because
22 the real property which is the subject of this action is located in this district, and
23 Plaintiff's cause of action arose in this district.
24

25 **IV. FACTS**

26 12. The Property is a facility which is open to the public and includes
27 business establishments.
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1 13. The Property has been newly constructed and/or underwent
2 remodeling, repairs, or alterations after January 26, 1992. Defendants have failed
3 to comply with California access standards which applied at the time of each new
4 construction and/or alteration, and/or failed to maintain accessible features in
5 operable working condition.
6

7
8 14. Plaintiff visited the Property during the relevant statutory period on
9 two (2) separate occasions, in April 2021 and January 2022 and to patronize the
10 business on the Property.
11

12 15. Defendants did not offer persons with disabilities with equivalent
13 facilities, privileges, and advantages offered by Defendants to other patrons.
14

15 16. Plaintiff encountered barriers, both physical and intangible, that
16 interfered with, and denied, Plaintiff the ability to use and enjoy the goods, services,
17 privileges, and/or accommodations offered at the Property.
18

19 17. Parking is one of the facilities, privileges, and advantages offered by
20 Defendants to patrons of the Property.
21

22 18. However, there was no accessible parking for disabled patrons at the
23 Property. The parking space(s) designated for disabled persons did not comply
24 with the ADA.
25

26 19. The parking area did not comply with the applicable California
27 Building Code (CBC).
28

1 20. When Plaintiff visited the Property, he experienced access barriers
2 related to parking, signage, and paths of travel.

3
4 21. Plaintiff encountered the following barriers, conditions, and/or
5 violations at the Property:

6 **The property which serves American Ranch & Seafood Market (Mga**
7 **Lutong Bahay) has many violations of the ADAAG which are barriers to**
8 **somebody like Plaintiff. There are major problems related to damaged**
9 **and uneven surfaces. Some of the pavement distresses are from damage**
10 **(such as cracks in the asphalt), some from bad design or installation (for**
11 **example uneven pavement). The disabled bathroom is marked for**
12 **employee use only. There are problems inside of American Ranch &**
13 **Seafood Market (Mga Lutong Bahay) also. The property is missing**
14 **marked paths of travel from the access aisle. The paint for the**
15 **designated parking space and access aisles are so faded they are virtually**
16 **invisible. There are missing accessible parking signs. There are many**
17 **other problems as well.**

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24 **VIOLATION of 1991 ADAS § 4.3.2(1); 2010 ADAS § 206.2.1; 2010 CBC**
25 **§ 1114B.1.2; 2019 CBC § 11B-206.2.1. (Exterior route of travel.) An**
26 **accessible route of travel is not provided to all entrances and portions of the**
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1 building, to all entrances of the Property, and/or between the building and a
2 public way. Plaintiff needs a dedicated path of travel, free of obstructions
3 and vehicles, where (on which) Plaintiff can travel. It is dangerous for
4 Plaintiff to navigate without a safe, protected, accessible route of travel; thus,
5 the violation interferes with Plaintiff's ability to fully access the premises.
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9 **VIOLATION of 1991 ADAS §§ 4.1.2(1), 4.3.2(1); 2010 ADAS §§ 206.1,**
10 **206.2, 206.2.1, 206.2.2, 206.2.4; 2010 CBC § 1114B.1.2; 2010 CBC §**
11 **1127B.1; 2019 CBC §§ 11B-206.2.1, 11B-206.2.2, 11B-206.2.4.**

12 (Accessible route of travel.) At least one accessible route shall be provided
13 within the site from accessible parking spaces and accessible passenger
14 loading zones; public streets and sidewalks; and public transportation stops to
15 the accessible building or facility entrance they serve. At least one accessible
16 route shall connect accessible buildings, accessible facilities, accessible
17 elements, and accessible spaces that are on the same site. The requisite
18 accessible route of travel is not provided. There is no accessible route of
19 travel from the designated disabled parking spaces, adjacent access aisle to
20 the business/building entrance. Plaintiff needs an accessible route of travel,
21 with level and smooth ground, free of obstructions and vehicles, whereupon
22 Plaintiff can ambulate. It is dangerous for Plaintiff to travel these areas
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1 without a safe, protected, accessible route of travel; thus, the violation
2 interferes with Plaintiff's ability to fully access the premises. The lack of a
3 safe and accessible route, with a smooth and level surface, denied Plaintiff
4 full and equal use or access during each of Plaintiff's visits by making it
5 difficult/ harder for Plaintiff to traverse.
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9 **VIOLATION of 1991 ADAS § 4.1.2(7); 2010 ADAS § 216.6; 2010 CBC §**
10 **1127B.3; 2019 CBC § 11B-216.6. (Directional signage.)** There is no
11 directional signage showing an accessible path of travel to an accessible
12 entrance. Plaintiff faces an increased risk of injury if Plaintiff is required to
13 backtrack because Plaintiff cannot find an accessible entrance into the
14 business/building. Thus, Plaintiff requires clear signage directing him to any
15 accessible entrance(s). Accessible entrances should be marked with an
16 International Symbol of Accessibility.
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21 **VIOLATION of 1991 ADAS § 4.6.4; 2010 ADAS § 502.6; 2010 CBC §**
22 **1129B.4; 2019 CBC § 11B-502.6. (Sign missing – accessible parking**
23 **space.)** The sign identifying the designated disabled parking space is/was
24 missing. Plaintiff needs to park in the space that is nearest to the
25 building/business entrance and designated for disabled patrons. Plaintiff
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1 needs to be able to use an accessible parking space, with an access aisle, to
2 safely access the Property. Clear signage will (better) deter others without
3 disabilities from parking in the space; and will thus decrease the chances that
4 he will be blocked from being able to use it.
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8 **VIOLATION of 1991 ADAS § 4.6.4; 2010 ADAS § 502.6; 2010 CBC §**
9 **1129B.4; 2019 CBC § 11B-502.6.2. (Sign missing – “Minimum Fine**
10 **\$250.”)** There was no sign warning of the minimum fine of \$250 for
11 unauthorized parking posted in front of the right designated disabled parking
12 space. Plaintiff needs to park in the space that is closest to the business
13 entrance and designated for disabled persons. Clear signage that distinctly
14 warns of the penalties for unauthorized parking in the designated disabled
15 parking space will deter others without disabilities from parking in the space
16 and thereby blocking Plaintiff from being able to use it.
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21 **VIOLATION of 1991 ADAS § 4.6.4; 2010 CBC § 1129B.4; 2019 CBC §**
22 **11B-502.6.3. (Sign improperly located.)** A designated disabled parking
23 space identification sign shall be visible from each designated disabled
24 parking space. Signs shall be permanently posted either immediately
25 adjacent to the parking space, or within the projected parking space width at
26 the head end of the parking space. Here it was not. This makes it difficult for
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1 Plaintiff and other patrons to identify or locate the designated disabled
2 parking space. Plaintiff needs to park in the space that is nearest to the
3 business entrance and designated for disabled patrons. Plaintiff needs to be
4 able to use an accessible parking space, with an access aisle, to safely access
5 the Property. A properly placed designated disabled parking space
6 identification sign will (better) deter others without disabilities from parking
7 in the space; and will thus decrease the chances that Plaintiff will be blocked
8 from being able to use it.
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13 **VIOLATION of 2019 CBC § 11B-502.6; 2010 ADAS § 502.6. (Sign**
14 **obscured.)** The sign identifying designated disabled parking space(s) is
15 illegible because it is covered with adhesive sticker(s) and/or graffiti. This
16 makes it difficult for Plaintiff and other patrons to see and read the sign.
17 Plaintiff needs to be able to use an accessible parking space, with an access
18 aisle, to safely access the Property. Clear signage that explicitly marks the
19 designated disabled parking space will deter others without disabilities from
20 parking in the space and thereby blocking Plaintiff from being able to use it.
21 Plaintiff needs to park in the space that is nearest to the business entrance and
22 designated for disabled patrons.
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1 **VIOLATION of 1991 ADAS § 4.3.7; 2010 ADAS § 403.3; 2019 CBC §**
2 **11B-403.3.** (Route/path of travel – cross slopes.) The cross slopes of the
3 route/path of travel are greater than two percent (2%). It is difficult for
4 Plaintiff to travel on surfaces with excess slopes. Plaintiff is at risk of falling
5 when there are surfaces with excess slopes. The presence of excess slopes
6 denied Plaintiff full and equal use or access during Plaintiff's visits by
7 making it difficult and/or uncomfortable for Plaintiff to traverse the
8 property/route. The barrier also deterred/deters Plaintiff from visiting the
9 Property because it would make it difficult and/or uncomfortable for
10 Plaintiff to walk/traverse the property/route.
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16 **VIOLATION of 1991 ADAS §§ 4.5.2, 4.6.8; 2010 ADAS §§ 302.1, 303.1,**
17 **303.2, 303.3, 303.4; 2010 CBC §§ 1120B.2, 1133 B.7.1, 1133B.7.4; 2019**
18 **CBC §§ 11B-303.1, 11B-303.2, 11B-303.3, 11B-303.4, 11B-303.5.** (Abrupt
19 changes in level; uneven ground surface.) Floor and ground surfaces shall be
20 stable, firm, and slip resistant. Changes in level of 1/4 inch high maximum
21 shall be permitted to be vertical and without edge treatment. Changes in
22 level between 1/4-inch high minimum and 1/2-inch high maximum shall be
23 beveled with a slope not steeper than 1:2. Changes in level greater than 1/2
24 inch high shall be ramped. The route of travel, including from the designated
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1 disabled parking space to the entrance of the building/business, have an
2 uneven ground surface with changes in level exceeding one-half inch (1/2")
3 (and no ramps are provided). The route of travel has damaged ground which
4 is not flush or flat. The ground has pavement distresses. The types of
5 pavement distresses which exist include but are not limited to: alligator
6 (fatigue) cracking; joint reflection cracking; raveling; stripping; corrugation
7 and shoving; and depressions. These pavement distresses are made worse
8 and exacerbated by design elements which do not follow the ADAAG.
9 These areas should be fixed immediately because they pose a tripping and/or
10 falling hazard. Plaintiff, a cannot safely and fully enjoy the premises when
11 such conditions are present. These excess changes in level and uneven
12 ground surfaces pose risks to Plaintiff, including that Plaintiff's foot, may
13 catch on the uneven ground causing Plaintiff to fall. These abrupt changes in
14 level pose an increased risk of danger to Plaintiff, as Plaintiff is more likely
15 to trip/fall than someone without disabilities. The excess changes in level
16 (i.e., uneven ground) denied Plaintiff full and equal use or access during each
17 of Plaintiff's visits by making it difficult/harder and more dangerous for
18 Plaintiff to traverse the property/route. The excess changes in level (i.e.,
19 uneven ground) also deterred/deters Plaintiff from visiting the Property
20 because it would be difficult/harder and more dangerous for Plaintiff to
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1 traverse the property/route.

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4 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.2.; 2010 CBC §§**
5 **1129B.3, 1129B.4; 2019 CBC §§ 11B-502.2, 11B-502.6.4.1, 502.6.4.2.**

6 (Faded paint – accessible parking space lines.) The paint used for the
7
8 designated disabled parking space is so worn and aged that it cannot (can
9 hardly) be seen. This makes it unclear where the actual designated disabled
10 parking space is, and it makes it difficult for Plaintiff to use the space.

11
12 Plaintiff needs to be able to use the designated disabled parking space, which
13 should be located closest to the entrance and linked to an accessible route of
14 travel, because it is more difficult for Plaintiff as opposed to non-disabled
15 persons, to maneuver about the Property. When the paint for the designated
16 disabled parking space is worn and aged, there is a greater risk that non-
17 disabled patrons will park in the designated disabled parking space,
18 preventing Plaintiff from using it and accessing the business.
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22 **VIOLATION of 2010 ADAS § 502.2; 2010 CBC § 1129B.3; 2019 CBC §**
23 **11B-502.2. (Width of designated disabled parking space.)** The designated
24 disabled parking space measured/measures less than nine feet (9') wide,
25 which made (would make) it difficult for Plaintiff to use the designated
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1 space, and which denied (would deny) plaintiff full and equal use and access
2 of the full width of the required space. The paint used for the accessible
3 parking space lines are so faded and worn that it is difficult to identify the
4 actual dimensions of the space. Plaintiff cannot safely disembark from the
5 vehicle when adequate space is not provided. Plaintiff needs to be able to
6 use the designated disabled parking space, which should be located closest to
7 the entrance and linked to an accessible route of travel, because it is more
8 difficult for Plaintiff, as opposed to non-disabled persons to maneuver about
9 the Property.
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13 **VIOLATION of 2010 ADAS § 502.2; 2010 CBC § 1129B.3; 2019 CBC §**
14 **11B-502.2. (Length of designated disabled parking space.)** The designated
15 disabled parking space measures/measured less than eighteen feet (18') long,
16 which made (would make) it difficult for Plaintiff to use the designated
17 space, and which denied (would deny) plaintiff full and equal use and access
18 of the full length of the required space. The paint used for the accessible
19 parking space lines are so faded and worn that it is difficult to identify the
20 actual dimensions of the space. Plaintiff cannot safely park and disembark
21 from the vehicle when adequate space is not provided. Plaintiff needs to be
22 able to use the designated disabled parking space, which should be located
23 closest to the entrance and linked to an accessible route of travel, because it
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1 is more difficult for Plaintiff, as opposed to non-disabled persons, to
2 maneuver about the Property.
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5 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.3.2; 2010 CBC §**
6 **1129B.3; 2019 CBC § 11B-502.3.2. (Length of adjacent access aisle.)** The
7 access aisle adjacent to the designated disabled parking space is/was less than
8 eighteen feet (18') long (which is also the required length of the designated
9 disabled parking space), which denied (would deny) plaintiff full and equal
10 use and access of the full length of the required access aisle. Plaintiff needs
11 extra space to be able to safely exit the vehicle. When the access aisle is too
12 small, Plaintiff has difficulty disembarking from the vehicle, which poses a
13 greater risk of injury to Plaintiff and can also cause humiliation and/or
14 frustration.
15

16 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.3.1; 2010 CBC §**
17 **1129B.3; 2019 CBC 11B-502.3.1. (Width of adjacent access aisle.)** The
18 loading/unloading access aisle adjacent to the designated disabled parking
19 space is/was less than five feet (5') wide, which denied (would deny) plaintiff
20 full and equal use and access of the full width of the required access aisle.
21 Plaintiff needs extra space to be able to safely exit the vehicle. When the
22 access aisle is too small, Plaintiff has difficulty disembarking from the
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1 vehicle, which poses a greater risk of injury to Plaintiff and can also cause
2 humiliation and/or frustration.

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5 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.4; 2016 CBC §§**
6 **11B-502.4, 11B-502.3.3; 2010 CBC § 1129B.3.4. (Slope of designated**
7 **disabled parking spaces.)** The designated disabled parking spaces have
8 slopes and cross slopes that are greater than two percent (2%). Given
9 Plaintiff's mobility issues, Plaintiff needs to be able to traverse on a level
10 surface. Sloped ground surfaces pose risks to Plaintiff, including that
11 Plaintiff's feet may catch on the sloped ground, causing Plaintiff to fall.

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16 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.4; 2010 CBC §**
17 **1129B.3.3; 2019 CBC § 11B-502.4. (Slopes of adjacent access aisle.)** The
18 loading/unloading access aisle adjacent to the designated disabled parking
19 spaces has surface slopes greater than two percent (2%). Given Plaintiff's
20 mobility issues, Plaintiff needs to be able to traverse on a level surface.
21 Sloped ground surfaces pose risks to Plaintiff, including that Plaintiff's feet
22 may catch on the sloped ground, causing Plaintiff to fall.

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26 **VIOLATION of 2010 CBC § 1129B.4; 2019 CBC § 11B-502.6.4.**
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1 (Parking space ground surface signage/International Symbol.) The paint
2 used for the designated disabled parking space is faded and cannot (can
3 hardly) be seen; thus, there is no compliant surface signage at the designated
4 disabled parking space. The International Symbol of Accessibility is so
5 faded and worn that it can hardly be seen. This makes it difficult for
6 Plaintiff and other patrons to identify or locate the designated disabled
7 parking space. When the paint for the International Symbol of Accessibility
8 is so faded and worn, there is a greater risk that non-disabled patrons will
9 park in the designated disabled parking space, preventing Plaintiff from
10 using it and accessing the business. Plaintiff needs to be able to park in the
11 space that is nearest to the entrance and designated for disabled patrons.
12 Plaintiff needs to be able to use an accessible parking space, with an access
13 aisle, to safely access the Property. Clear surface signage that explicitly
14 marks the designated disabled parking space will deter others without
15 disabilities from parking in the space, so that the space can be available for
16 Plaintiff's use.

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24 **VIOLATION of 2010 ADAS § 502.3.3; 2010 CBC § 1129B.3.1; 2019**
25 **CBC § 11B-502.3.3.** (“NO PARKING” – ground surface signage.) The
26 words “NO PARKING,” which are required to be painted in the loading/
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1 unloading access aisle, were/are missing (and/or were completely faded such
2 that the words were no longer visible). As a result, non-disabled patrons
3 parked in the loading/unloading access aisle, blocking Plaintiff from being
4 able to use the access aisle. Plaintiff needs extra space to be able to safely
5 exit the vehicle. Plaintiff has difficulty disembarking the vehicle, which
6 poses a greater risk of injury to Plaintiff and can cause humiliation and/or
7 frustration. Plaintiff cannot access the Property safely if Plaintiff cannot use
8 an accessible parking space and adjacent access aisle.

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13 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.3; 2010 CBC §**
14 **1129B.3; 2019 CBC § 11B-502.3. (Access aisle adjoining accessible route.)**

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16 The adjacent loading/unloading access aisles must adjoin an accessible route
17 to an accessible entrance. It does/did not. Plaintiff cannot access the
18 Property safely unless there is an access aisle onto which Plaintiff can
19 disembark from the vehicle. The access aisle must lead to an accessible route,
20 so that Plaintiff can safely travel to and enter the business. There is no safe
21 route of travel from the designated disabled parking space to the business
22 entrance. The barrier deterred/deters Plaintiff from visiting the property
23 because the lack of a safe and accessible route would make it difficult,
24 uncomfortable, and/or unsafe for Plaintiff to walk around the property,
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1 including to travel from the designated disabled parking space to the building
2 entrance.

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5 **VIOLATION of 1991 ADAS §§ 4.3.8, 4.5.2; 2010 ADAS §§ 302.1, 303.2,**
6 **303.3, 303.4, 403.2; 2010 CBC §§ 1133B.7.1, 1133B.7.4; 2019 CBC §§**
7 **11B-302.1, 11B-303.2, 11B-303.3, 11B-303.4, 11B-403.2. (Changes in level**
8 **– designated disabled parking space.)** There are excess changes in level (of
9 more than one-half inch) within the parking spaces reserved for disabled
10 patrons. The asphalt is uneven, and has depressions, dips, and divots. The
11 ground has sunken and cracked parts. This makes travelling in this area
12 difficult. These excess changes in level and uneven ground surfaces pose
13 risks to Plaintiff, including that Plaintiff may fall.

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18 **VIOLATION of 1991 ADAS § 4.5.3; 2010 ADAS § 302.2; 2010 CBC §**
19 **1124B.3; 2019 CBC § 11B-302.2. (Carpet.)** Carpets and mats must be
20 securely attached to a stable surface. The floor mat at the front entrance door
21 is not securely attached, which can cause rolling and buckling, making
22 maneuvering more difficult. Plaintiff's feet can easily catch on unsecured
23 mats and/or carpets, causing Plaintiff to trip.

1 22. Plaintiff personally encountered the foregoing barriers, conditions,
2 and/or violations.

3
4 23. These barriers, conditions, and/or violations denied Plaintiff full and
5 equal access, and caused him difficulty, humiliation, and/or frustration.

6 24. The barriers, conditions, and/or violations existed during each of
7 Plaintiff's visits in 2021 and 2022.

8
9 25. Defendants knew that the foregoing architectural barriers prevented
10 access. Plaintiff will prove that Defendants had actual knowledge that the
11 architectural barriers prevented access, and that the noncompliance with the ADA
12 Standards for Accessible Design (ADAS), ADA Accessibility Guidelines for
13 Buildings and Facilities (ADAAG), and/or the California Building Code (CBC)
14 was intentional.
15

16
17 26. Plaintiff intends and plans to visit the Property again soon. Currently,
18 Plaintiff is reasonably deterred from returning to Defendants' public
19 accommodation facilities because of the knowledge of barriers to equal access,
20 relating to Plaintiff's disabilities, that continue to exist at the Property.
21

22 27. Defendants have failed to maintain in working and useable condition
23 those features necessary to provide ready access to persons with disabilities.
24

25 28. Defendants have the financial resources (i.e., financial ability) to
26 remove these barriers without much expense or difficulty in order to make the
27
28

1 Property more accessible to their mobility impaired customers (i.e., disabled
2 persons). The removal of these barriers is readily achievable. The United States
3 Department of Justice has determined that removal of these types of barriers is
4 readily achievable.
5

6 29. Defendants refuse to remove these barriers.
7

8 30. On information and belief, Plaintiff alleges that Defendants' failure to
9 remove these barriers was/is intentional, because the barriers are logical and
10 obvious. During all relevant times, Defendants had authority, control, and
11 dominion over these conditions. Thus, the absence of accessible facilities was/is
12 not a mishap; it was/is the result of intentional actions or inaction.
13

14 31. These barriers to access are described herein without prejudice to
15 Plaintiff citing additional barriers to access after further inspection by Plaintiff's
16 agents and/or experts. *See Doran v 7-ELEVEN, Inc.*, 524 F.3d 1034 (9th Cir. 2008)
17 (holding that once a plaintiff encounters one barrier at a site, a plaintiff can sue to
18 have all barriers that relate to his or her disability removed, regardless of whether
19 he or she personally encountered them).
20
21

22 **IV. FIRST CAUSE OF ACTION: VIOLATION OF THE**

23 **AMERICANS WITH DISABILITIES ACT OF 1990**

24 **(42 U.S.C. § 12101, *et seq.*)**

25 **(Against All Defendants)**
26
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1 32. Plaintiff alleges and incorporates by reference each and every
2 allegation contained in all prior paragraphs of this complaint.

3
4 33. Title III of the ADA prohibits discrimination against any person on the
5 basis of disability in the full and equal enjoyment of the goods, services, facilities,
6 privileges, advantages, or accommodations of any place of public accommodation
7 by any person who owns, leases, or operates a place of public accommodation. 42
8 U.S.C. § 12182(a).

9
10 34. Defendants discriminated against Plaintiff by denying him “full and
11 equal enjoyment” and use of the goods, services, facilities, privileges, and/or
12 accommodations they offered during each visit, and each incident of a deterred
13 visit.

14
15 35. The acts and omissions of Defendants herein were/are in violation of
16 Plaintiff’s rights under the ADA and the regulations codified at 28 C.F.R. Part 36,
17 *et seq.*

18
19 36. Pursuant to the ADA, discrimination is a “failure to make reasonable
20 modifications in policies, practices or procedures, when such modifications are
21 necessary to afford goods, services, facilities, privileges, advantages or
22 accommodations to individuals with disabilities, unless the entity can demonstrate
23 that making such modifications would fundamentally alter the nature of such goods,
24 services, facilities, privileges, advantages or accommodations.” 42 U.S.C. §
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1 12182(b)(2)(A)(ii).

2 37. The ADA requires removal of architectural barriers in existing
3 facilities where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv)
4 (“discrimination includes ... a failure to remove architectural barriers, and
5 communication barriers that are structural in nature, in existing facilities, ... where
6 such removal is readily achievable”). The term “readily achievable” is defined as
7 “easily accomplishable and able to be carried out without much difficulty or
8 expense.” 42 U.S.C. § 12181(9). Barriers are defined by reference to the ADA
9 Standards for Accessible Design (ADAS), found at 28 C.F.R. Part 36, including the
10 ADA Accessibility Guidelines for Buildings and Facilities (ADAAG), at Part 36,
11 Appendix A.
12

13 38. If removal of any barrier is not readily achievable, a failure to make
14 goods, services, facilities, or accommodations available through alternative
15 methods is also prohibited if the alternative methods are readily achievable. 42
16 U.S.C. § 12182(b)(2)(A)(v).
17

18 39. Defendants can remove the architectural barriers at their facility
19 without much difficulty or expense. Defendants violated the ADA by failing to
20 remove the barriers because removal was readily achievable. For instance, there
21 are companies which can repaint parking areas for as little as \$350. Defendants can
22 afford such costs, which are a fraction of what Defendants receive in (rental or
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1 business) profits in connection with such a large and expensive property.

2 40. Alternatively, if it was not “readily achievable” for Defendants to
3 remove barriers at their facilities, Defendants violated the ADA by failing to make
4 their services available through alternative methods which are readily achievable.
5

6 41. On information and belief, Plaintiff alleges that the facility was altered
7 after January 26, 1992, mandating compliance with accessibility requirements
8 under the ADA.
9

10 42. The ADA requires that facilities altered in a manner that affects or
11 could affect their usability must be made readily accessible to individuals with
12 disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2).
13

14 43. Defendants altered the facilities at the Property in a manner that
15 violated the ADA, and/or failed to make the Property readily accessible to
16 physically disabled persons to the maximum extent feasible.
17

18 44. The ADA also requires reasonable modifications in policies, practices,
19 or procedures, when such modifications are necessary to afford goods, services,
20 facilities, privileges, advantages, or accommodations to individuals with
21 disabilities, unless the entity can demonstrate that making such modifications
22 would fundamentally alter the nature of such goods, services, facilities, privileges,
23 advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
24

25 45. Defendants violated the ADA by failing to make reasonable
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1 modifications in policies, practices, or procedures at the Property when these
2 modifications were necessary to afford (and would not fundamentally alter the
3 nature of) the goods, services, facilities, privileges, advantages, or accommodations.
4

5 46. Plaintiff seeks a finding from this Court that Defendants violated the
6 ADA, so that he may pursue damages under California's Unruh Civil Rights Act.
7

8 47. Here Defendants' failure to make sure that accessible facilities were
9 available to, and ready to be used by, Plaintiff was/is a violation of law.
10

11 48. Plaintiff would like to continue to frequent the Property, which is close
12 to his home. However, he is deterred from doing so because he has been
13 discriminated against and is aware of accessibility barriers at the Property.
14

15 49. Among the remedies sought, Plaintiff seeks an injunction order
16 requiring compliance with federal and state disability access laws, and remediation
17 of the existing access violations (i.e., removal of the existing barriers) at the
18 Property.
19

20 **V. SECOND CAUSE OF ACTION: VIOLATION OF THE**
21 **UNRUH CIVIL RIGHTS ACT**

22 **(Cal. Civ. Code §§ 51-53)**

23 **(Against All Defendants)**
24

25 50. Plaintiff repleads and incorporates by reference, as though fully set
26 forth herein, the allegations contained in all prior paragraphs of this complaint.
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28

1 51. California Civil Code § 51 states, in part: “All persons within the
2 jurisdictions of this state are entitled to the full and equal accommodations,
3 advantages, facilities, privileges, or services in all business establishments of every
4 kind whatsoever.”

5
6 52. California Civil Code § 51 also states, in part: “No business
7 establishment of any kind whatsoever shall discriminate against any person in this
8 state because of the disability of the person.”

9
10 53. California Civil Code § 51(f) specifically incorporates, by reference,
11 an individual’s rights under the ADA into the Unruh Civil Rights Act (UCRA).

12
13 54. The UCRA also provides that a violation of the ADA, or California
14 state accessibility regulations, is a violation of the UCRA. Cal. Civ. Code § 51(f);
15 *see Arnold v. United Artists Theatre Circuit, Inc.*, 866 F. Supp. 433, 439 (N.D. Cal.
16 1994).

17
18 55. Defendants’ above-mentioned acts and omissions have violated the
19 UCRA by denying Plaintiff his rights to full and equal use of the accommodations,
20 advantages, facilities, privileges, and services they offer, on the basis of Plaintiff’s
21 disability.

22
23 56. Defendants’ above-mentioned acts and omissions have also violated
24 the UCRA by denying Plaintiff his rights to equal access pursuant to the ADA; and,
25 thus, Defendants are liable for damages. *See* Cal. Civ. Code § 51(f), 52(a).
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1 57. Because Defendants' violation of the UCRA resulted in difficulty,
2 discomfort, and/or embarrassment for Plaintiff, Defendants are each also
3 responsible for statutory damages. *See* Cal. Civ. Code § 55.56(a), (c).
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58. Plaintiff was (actually) damaged by Defendants' wrongful conduct. He seeks actual damages, and statutory minimum damages of four thousand dollars (\$4,000) for each offense (i.e., for each occasion that Plaintiff was denied full and equal access).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For injunctive relief compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: Plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act.
2. Damages under the Unruh Civil Rights Act, which provides for actual damages and statutory minimum damages of \$4,000 per each offense.
3. Reasonable attorney fees, litigation expenses, and costs of suit, pursuant to 42 U.S.C. § 12205, and Cal. Civ. Code § 52.

DEMAND

Plaintiff demands a bench trial on all issues so triable.

Dated: May 2, 2022

THE LAW OFFICE OF HAKIMI & SHAHRIARI

By: /s/ Peter Shahriari

PETER SHAHRIARI, ESQ.

Attorney for Plaintiff George Jones